

Department of Environmental Protection and Resource Management
105 West Chesapeake Avenue
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 59902

Kimberly M. Biasucci

3730 Seneca Garden Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on November 4, 2009 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 35-2-301, 304, failure to obtain a valid building permit for rear deck on residential property known as 3730 Seneca Garden Road, 21220.

On October 1, 2009, pursuant to Baltimore County Code §3-6-205, Inspector Gary Hucik issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$1,000.00 (one thousand dollars).

The following persons appeared for the Hearing and testified: Rick Hauser and Kimberly Biasucci, Respondents, Gary Hucik, Baltimore County Building Inspections Inspector and Brian Lindley, Supervisor for Environmental Enforcement, Environmental Impact Review, Critical Areas and Marinas division for the Department of Environmental Protection and Resource Management (DEPRM).

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on May 4, 2009 for failure to obtain building permit and inspection for construction of deck on rear of structure. This Citation was issued on October 1, 2009.

B. Inspector Gary Hucik testified that the deck at Respondent's house was built without a permit and that his inspection found that it was not built to satisfy code requirements. Several time extensions were given so Respondent could obtain a permit and correct the violations. However, Respondent was unable to obtain a permit and this citation was issued.

C. Brian Linley, Department of Environmental Protection & Resource Management, testified that this property is in the Chesapeake Bay Critical Area and is subject to state-mandated development regulations. Respondent is allowed to have 1486 square feet of impervious surface on her lot, including the driveway, house, and shed. Houses in this development originally had driveways made of pavers; which allow water to penetrate, but Respondent's driveway has been paved and turned into an impervious surface. Respondent has about 2000 square feet of impervious surface, and must reduce this to the allowable amount; Respondent may have to remove the driveway and the shed to comply with regulations. Linley further testified that the Department will assist Respondent in measuring the covered areas and identifying options for compliance.

D. Rick Hauser, husband of Respondent, testified that when they bought the house, the shed and the paved driveway were already in place.

E. There is no factual dispute regarding the building code violation. Respondent must obtain a valid building permit and inspection for the deck, or remove the deck. Respondent must also make corrections to bring the property into compliance with the Chesapeake Bay Critical Area regulations before the deck permit can be issued. Because compliance is the goal of code enforcement, the civil penalty will be rescinded if the violation is corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$1,000.00 (one thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the violation is corrected by February 5, 2010, either by removing the deck or by obtaining a valid building permit and passing required inspections for the deck.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty as authorized above shall be imposed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 20th day of November 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.